

Appl. No. 10/685,772
Amdt. Dated January 9, 2006
Reply to Office Action of October 7, 2005

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig.1. This sheet replaces the original Fig. 1.

Attachment: Replacement sheet.

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• • R E M A R K S / A R G U M E N T S • •

The Official Action of October 7, 2005 has been thoroughly studied. Accordingly, the following remarks are believed to be sufficient to place the application into condition for allowance.

By the present amendment the independent claims have each been amended to recite that a ladder on the rack of the present invention is not overturned when it is moved between a stowage position and a loading/unloading position. This limitation is readily supported by the original specification and is an important aspect of the present invention as discussed below.

Independent claim 1 has further been changed to recite that the first end of the bed platform is pivotally coupled to the frame assembly by a pivot point that allows for multiple axis pivotal movement.

Independent claim 15 has likewise been changed to recite that the pivot bearing coupling the first end of the bed platform to the first end of the frame assembly allows for multiple axis pivotal movement.

Support for this limitation can be readily found by considering the manner in which the bed platform pivots between the stowage position and the loading/unloading position.

Also by the present amendment the claims have been changed to recite that the slots in the fixed and hinged guide assemblies are elongated slots. This limitation is fully supported in the original drawings.

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In addition, the claims have been amended in the manner suggest by the Examiner on pages 3 and 4 of the Office Action.

It is noted that claim 4 provides antecedent basis for the language "the guide bar assembly which further cooperates with a hinged guide assembly that is coupled to the frame assembly" in line 2 of claim 4.

Finally, as a general note it is pointed out that the present invention include a guide bar assembly 12, a fixed guide assembly 4 and a hinged guide assembly 5 which are each separate elements.

The guide bar assembly 12 is best identified in Fig. 4 and includes carriage 24, support arm 26 and latch pin 25. The latch pin 25 allows the guide bar assembly 12 to be latched to the hinged guide assembly as discussed in the last paragraph on page 11 of applicant's specification and as shown in Fig. 5.

On page 2 of the Office Action the Examiner has noted that:

According to the specification the guide bar assembly (12) consists of the guide bar (15) and the carriage (24). Reference numeral (12) in figure 1 does not indicate these elements and it is therefore unclear what is encompassed by the term "guide bar assembly" or by reference numeral (12).

In response to the Examiner's comments concerns applicant is submitting a Replacement Sheet of drawings that includes Fig.1 with the guide bar assembly 12 more accurately identified. The Examiner will note, as discussed above, the guide bar assembly 12 is best identified in Fig. 4 and includes carriage 24, support arm 26 and latch pin 25.

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On page 3 of the Office Action the Examiner has indicated that the application should contain a *Brief Summary of the Invention* section.

In response to the Examiner's request, applicant has changed the section heading "Disclosure of the Invention" to --Brief Summary of the Invention.--

Also on page 3 of the Office Action the Examiner has objected to the claims due to several listed informalities.

In response to the noted informalities, applicant has adapted the changes for the claims which the Examiner has courteously suggested.

On page 4 of the Office Action the Examiner has rejected claims 4 and 15 under 25 U.S.C. §112, second paragraph.

With regard to claim 4 the Examiner states that the language "the guide bar assembly which further cooperates with a hinged guide assembly that is coupled to the frame assembly" lacks antecedent basis in the claim.

Claim 4 recites:

A ladder rack according to claim 1, wherein the manually operative sliding mechanism comprises a guide bar assembly that cooperates with a fixed guide assembly that is coupled to the frame assembly and the manually operative pivoting mechanism comprises the guide bar assembly which further cooperates with a hinged guide assembly that is coupled to the frame assembly.

Antecedent basis for the term "guide bar assembly" is underlined above. The claim merely recites that the manually operative pivoting mechanism "comprise" or includes the guide bar assembly, which guide bar assembly further cooperates with the hinged guide assembly.

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With regard to claim independent 15, the terms "fixed guide bar assembly" and "hinged guide bar assembly" have been amended to delete "bar."

Claims 1-33 remain pending in this application.

Claims 1-14 and 26-33 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,315,181 to Bradley et al.

Claims 15-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bradley et al. in view of U.S. Patent No. 5,850,891 to Olms et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Bradley et al. as disclosing:

...a frame (12), mounted on a support, a bed platform (44)/(30), one end pivotally coupled to the frame (44), other end coupled to the frame for sliding and hinged movement (30), a sliding mechanism (14) and pivoting mechanism (14)/(20).

Initially, it is noted that Bradley et al. and the present invention are assigned to the same company.

Accordingly, the present inventor is very familiar with Bradley et al.

The Examiner states that the bed platform (44)/(30) of Bradley et al. is pivotally coupled to the frame (44).

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Independent claim 1 has been amended herein to recite that the first end of the bed platform is pivotally coupled to the frame assembly by a pivot point that allows for multiple axis pivotal movement.

Bradley only teaches that the elements 44 and 30 (which the Examiner construes to be applicant's claimed "bed platform") are only pivotal about a single axis that coincides with pivot 20.

Accordingly, Bradley et al. does not anticipate the limitations of applicant's independent claim 1.

Applicant's independent claims each require that that a ladder on the rack of the present invention is not overturned when it is moved between a stowage position and a loading/unloading position.

In Bradley et al. the ladder is overturned when moved between the positions shown in Fig. 3 and Fig. 4, by pivoting the ladder on the carriage about pivot 20.

Inasmuch as applicant's pending claims exclude such manner of overturning a ladder, Bradley et al. cannot be relied upon as anticipating this aspect of applicant's invention.

It is noted that the ability to avoid having to overturn a ladder is an important aspect of applicant's invention which structurally and functionally distinguishes over Bradley et al.

Note, Bradley et al. provide a ratchet assembly 72 having a lever 68 which is used to assist in pivoting or overturning ladder "L."

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Applicant's invention eliminates the use of such a ratchet that is required by Bradley et al., by providing a unique mechanism that allows a ladder to both pivot and slide from a loading/unloading position to a stowage position.

In rejecting claims 15-25 the Examiner has relied upon Bradley et al. as teaching:

...a frame assembly, a bed platform, a pivot bearing coupled to the first end of the platform (22), a guide bar assembly, including a guide bar projecting outwardly from the second end, a fixed guide assembly having a slot for receiving the guide bar, a hinged guide assembly having a slot pivotally coupled, and the guide bar being in both of the slots when in the stowage position.

The Examiner has further relied upon Olms et al. as teaching:

...a guide bar (80) being exclusively in the slot of the hinged guide assembly (52) when in the loading/unloading position.

In combining the teachings of Bradley et al. and Olms et al., the Examiner has taken the position that:

It would have been obvious....to modify BRADLEY with the guide bar of OLMS in order to create more clearance between the vehicle and ladder during the loading/unloading process.

Olms et al. teaches:

...an inside member 80 which slides on a pair of extendible drawer slides 82, 83 mounted between the interior surfaces of the square aluminum extrusion 52 and the outside lateral surfaces of the inside channel member 80.

Independent claim 15 requires a fixed guide assembly having an elongated slot and a hinged guide assembly having an elongated slot.

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Independent claim 15 further requires that the guide bar is in both of the elongated slots of the fixed guide assembly and the hinged guide assembly when the ladder rack is in the stowage position, and that the guide bar is exclusively in the elongated slot of the hinged guide assembly when the ladder rack is in the loading/unloading position.

It is not seen how the Examiner's combination of Bradley et al. and Olms et al. meets the latter limitations of applicant's independent claim 15.

The Examiner has not identified the "guide bar assembly," the "fixed guide assembly" and "hinged guide assembly" in the combination of Bradley et al. and Olms et al.

Moreover the Examiner has not explained how the combination meets the limitation of the guide bar being in both of the elongated slots of the fixed guide assembly and the hinged guide assembly when the ladder rack is in the stowage position, and that the guide bar being exclusively in the elongated slot of the hinged guide assembly when the ladder rack is in the loading/unloading position.

Absent such explanation, applicant's right to rebut the Examiner's position is prejudiced.

In any event, independent claim 15 has been amended to recite a pivot bearing coupling the first end of the bed platform to the first end of the frame assembly which allows for multiple axis pivotal movement.

As indicated above, Bradley et al. fails to teach such multiply axis pivotal movement and Olms et al. does not cure this defect.

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Finally, it is noted that there is no basis for the Examiner to support the combination of Bradley et al. and Olms et al. as being able to "create more clearance between the vehicle and ladder during the loading/unloading process."

A simple comparison of Fig. 1A of Olms et al. and Figs. 3 and 4 of Bradley et al. makes it apparent that both require about the same amount of area/clearance to manipulate a ladder.

Moreover, Olms et al. does not even mention anything about clearance.

Accordingly, the Examiner has not established any motivation for the combination that is based upon the teachings of the prior art.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

Moreover, the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicant's claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

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Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

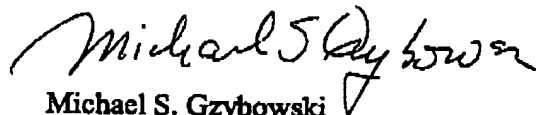
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

The prior art made of record by the Examiner on page 9 of the Office Action has been noted, but is not deemed to be particularly pertinent to applicant's claimed invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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